



ENVIRONMENTAL PROTECTION AGENCY

[FRL-10002-94-Region 3]

Clean Water Act: Maryland–Chester River Vessel Sewage No-Discharge Zone – Final Affirmative Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final determination.

SUMMARY: The Environmental Protection Agency (EPA) has approved the establishment of a no-discharge zone in the Chester River, Kent and Queen Anne’s Counties, Maryland and its tributaries.

DATES: Comments must be received in writing to the EPA on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Comments should be sent to Matthew A. Konfirst, U. S. Environmental Protection Agency – Mid-Atlantic Region, 1650 Arch Street, Mail Code 3WD31, Philadelphia, PA 19103-2029, or emailed to konfirst.matthew@epa.gov.

FOR FURTHER INFORMATION CONTACT: Matthew A. Konfirst, U. S. Environmental Protection Agency – Mid-Atlantic Region. Telephone: (215) 814-5801; Fax number: (215) 814-2301; email address: konfirst.matthew@epa.gov.

SUPPLEMENTARY INFORMATION:

On behalf of the State of Maryland, the Secretary of the Maryland Department of Natural Resources requested that the Regional Administrator, U. S. Environmental Protection Agency, Region 3 approve a no-discharge zone pursuant to section 312(f)(3) of the Clean Water Act, 33 U.S.C. 1322(f)(3). After review of Maryland’s application, the EPA determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the entirety of the Chester River and its tributaries. The State’s application is

available upon request from the EPA (please contact the person identified in the “**ADDRESSES**” section of this document) or at

http://dnr.maryland.gov/boating/Documents/FINAL_CRA_NDZ_APPLICATION.pdf.

The delineation of the proposed no-discharge zone of the Chester River and its tributaries to the Chesapeake Bay will begin at 39° 8'54.48"N, 76°16'37.11"W and extend down to 39° 2'23.56"N, 76°18'8.89"W. From there it will continue east throughout any navigable waters including all tributaries and bays. Included within this zone are Lankford Bay, Corsica River, Southeast Creek, and many smaller tributaries.

The application identifies 19 stationary and four mobile cart pumpout stations located at 17 marinas or docks throughout the Chester River. Sixteen of the nineteen stationary units also have a method to empty portable toilets. The pumpout stations were funded through the Clean Vessel Act and Maryland Waterway Improvement Fund with grants administered by the Maryland Department of Natural Resources. Use of the pumpout stations incurs a fee of no more than \$5.00 for the first 50 gallons of sewage pumped plus an additional 10 cents per gallon for every gallon above 50. All pumpouts comply with local and state sanitary permitting requirements. A list of the facilities, phone numbers, locations, and hours of operation can be found below.

LIST OF FACILITIES WITH PUMPOUTS IN THE PROPOSED NO-DISCHARGE ZONE				
Pumpout Facility	Operating Hours in Season	Mean Low Water Depth (ft)	Phone Number	Address
Bayside Landing Park	24-7	5	410-778-2600	20927 Bayside Avenue Rock Hall, MD 21661
Castle Harbor Marina	24-7	6	410-643-5599	301 Tackle Cir Chester, MD 21619
Chestertown Marina	9:00-5:00 daily	10	410-778-0500	207 S Water St Chestertown, MD 21620

Gratitude Marina	9:00-5:00 daily	7	410-639-7011	5924 Lawton Ave Rock Hall, MD 21661
Haven Harbor Marina	8:00-5:00 daily	6	410-778-6687	20880 Rock Hall Ave Rock Hall, MD 21661
Kennersley Point Marina	8:00-5:00 daily	3	410-758-2394	223 Marina Ln Church Hill, MD 21623
Lankford Bay Marina	24-7	7	410-778-1414	23002 McKinleyville Rd Rock Hall, MD 21661
Long Cove Marina	8:00-5:00 daily	6	410-778-6777	22589 Hudson Rd Rock Hall, MD 21661
Mears Point Marina	8:30-7:00 daily	6	410- 827-8888	428 Kent Narrow Way N Grasonville, MD 21638
North Point Marina	9:00-5:00 daily	6	410-639-2907	5639 Walnut St Rock Hall, MD 21661
Osprey Point Marina	24-7	6	410-639-2194	20786 Rock Hall Ave Rock Hall, MD 21661
Piney Narrows Yacht Haven	8:30-6:30 daily	8	410- 643-6600	500 Piney Narrows Rd Chester, MD 21619
Queenstown Harbor Community Pier	24-7	6	301-343-5487	252 Harbor Lane Queenstown, MD 21658
Rock Hall Landing Marina	9:00-5:00 daily	5	410-639-2224	5657 S Hawthorne Ave Rock Hall, MD 21661
Sailing Emporium	8:00-5:00 daily	8	410-778-1342	21144 Green Lane Rock Hall, MD 21661
Spring Cove Marina	24-7	5	410-639-2110	21035 Spring Cove Rd Rock Hall, MD 21661
Swan Creek Marina	24-7	7	410-639-7813	6043 Lawton Ave Rock Hall, MD 21661

The State of Maryland provided documentation demonstrating that the total resident and transient vessel population using the proposed waters is estimated to be between 2,705 and 4,700 boats. Using the higher of those estimates, the State identified approximately 3,196 as recreational vessels, 1,151 as commercial vessels, and 353 as “Other.” Commercial vessels in the Chester River include crabbing and fishing boats, charter fishing boats, and passenger vessels. The estimated vessel population is based on length: the most conservative estimates provided by the State of Maryland suggest that there are no vessels less than 16 feet in length, 15 vessels between 16 feet and 25 feet in length, 3,034 vessels between 25 feet and 40 feet in length, and 1,651 vessels

greater than 40 feet in length. Based on the number and size of vessels and EPA guidance (*Protecting Coastal Waters from Vessel and Marina Discharges: A Guide for State and Local Officials*, August 1994), the estimated number of vessels requiring pumpout facilities in the Chester River during peak occupancy is 1,207.

In the application, Maryland certified that the Chester River and its tributaries need greater environmental protection to improve water quality and protect important resources. Both the Chester River and the Chesapeake Bay into which it drains, are classified as impaired for not meeting applicable State water quality standards. The entirety of the Chester River is considered impaired by nutrients, sediment, bacteria or a combination thereof. The two counties that surround the Chester River, Kent County and Queen Anne's County, rank as the top two Maryland waterfront counties in terms of beach closures by percentage of beaches. All beach closures were the result of elevated bacteria as evidenced by high levels of enterococci.

The Chester River is an important economic driver for the region, providing jobs and revenue through tourism, commercial and recreational fishing for fish and shellfish, boating, and more. Many people use the Chester River for hunting, cruising, nature observation, sightseeing, waterskiing, tubing, racing, and swimming. Based on a study by the Sage Policy Group in 2012, cited in the application, the Chester River supports \$86 million in annual local economic activity, 900 jobs, and \$26.7 million in annual labor income.

The EPA determined that the costs associated with designating the Chester River as a vessel sewage NDZ are reasonable. Sufficient pumpout stations exist to service the resident vessel population and the fee is capped at \$5.00 per pumpout of 50 gallons or less. The commercial vessels operating in Chester River include crabbing, fishing, and charter vessels. These vessels have drafts less than 10 feet and can therefore access the facilities described previously in this

document. Neither the recreational vessels, nor most of the commercial vessels, are expected to require pumpouts in excess of 50 gallons. As identified in the application, two larger passenger vessels that may generate greater volumes of sewage are already operating holding tanks, and therefore would not experience any incremental costs associated with designation of a NDZ.

Following publication of the Receipt of Petition in the Federal Register at 82 FR 15357, March 28, 2017, a 30-day public comment period was opened. The EPA received comments from 64 unique individuals regarding establishment of a no-discharge zone (NDZ) in the Chester River and its tributaries. Of those, 57 supported and 7 contested the effort. Comments critical of establishing a NDZ focused on five primary issues: *Issue 1*: The volume of discharge targeted by the establishment of a NDZ in the Chester River is minimal. *Response*: These comments go beyond the scope of the EPA's authority in this action. Because the EPA's authority is limited to determining whether adequate pumpout facilities exist, it is not appropriate to base its determination on whether vessel sewage is comparable in quantity or impact to other sources of pollution. *Issue 2*: Effective enforcement of the regulation will be difficult. *Response*: Both the US Coast Guard and Maryland Department of the Environment have the authority to enforce NDZ requirements; however, initial efforts to achieve compliance are expected to focus on boater education. *Issue 3*: The data used to determine boat populations is outdated and the formula used to calculate pumpout availability does not accurately represent on-the-ground conditions. *Response*: Calculations indicate that a minimum of 10 pumpout facilities are required to service the Chester River boating population. There are currently 23 facilities with the capacity to support 6,900 boats; the upper estimate of boats is 4,700. Therefore, even if there is an increase in the number of boats, there is adequate capacity for pumpout service. *Issue 4*: Pumpout facilities are concentrated in certain areas of the river and are not available on a year-round basis. *Response*:

There is a concentration of pumpout facilities at Rock Hall near the northern end of the Chester River's mouth, but facilities are distributed along the river as far upstream as Chestertown. Ten of the 23 pumpout facilities are open year-round and are distributed throughout the Chester River NDZ. *Issue 5:* Establishing a NDZ would negate boaters' ability to operate certain flow-through marine sanitation devices that are currently Coast Guard-approved, thereby limiting boaters' options for handling sewage. *Response:* The NDZ only applies to the Chester River and its tributaries, not to the entirety of the Chesapeake Bay.

Based on the information above, the EPA hereby makes a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Chester River and its tributaries such that the State of Maryland may establish a vessel sewage no-discharge zone.

Dated: November 18, 2019.

Cosmo Servidio,

Regional Administrator, Mid-Atlantic Region.

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